



**10 AUG 2007**

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In re Application of	:
OGILVY, Ian Charles	:
Application No.: 10/585,072	:
PCT No.: PCT/AU99/00952	: DECISION ON PETITION
Int. Filing Date: 02 November 1999	: UNDER 37 CFR 1.137(b)
Priority Date: None	:
Docket No.: CRD-0009	:
For: IMPROVED COMPUTING SYSTEM AND	:
COMPUTING DEVICE	:

This decision is issued in response to applicant's "Petition to Revive the Application under 37 CFR §1.137(b)" filed 24 July 2007.

### **BACKGROUND**

On 02 November 1999, applicant filed international application PCT/AU99/00952 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 May 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 02 May 2002.

On 29 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the \$150 basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a decision dated 28 July 2006, applicant's petition to revive under 37 CFR 1.137(b) was granted.

On 06 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating declaration in compliance with 37 CFR 1.497(a) and (b) was required. Furthermore, the Notification indicated that an additional claim fee of \$1780 was due.

On 14 May 2007, applicant filed a "Petition to Revive the Application under 37 CFR §1.137." In a decision dated 29 May 2007, applicant's petition under 37 CFR 1.137(a) was dismissed without prejudice.

On 24 July 2007, applicant filed a "Petition to Revive the Application under 37 CFR §1.137(b)."

### **DISCUSSION**

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicant has satisfied items (2) and (3). Item (4) is not applicable.

Regarding item (1), the required reply was the submission of a declaration in compliance with 37 CFR 1.497, payment of the surcharge for delayed filing of the declaration, and payment of additional fees based on the number of claims presented. Petitioner has not submitted the items listed above. Further, petitioner states that inventor Ian Charles Ogilvy is unavailable to execute the declaration. Therefore, in order to comply with the proper reply requirement of item (1) above for revival under 37 CFR 1.137(b), applicant must submit a grantable petition under 37 CFR 1.47(b). Accordingly, item (1) has not been satisfied.

Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(b), revival at this time would not be proper.

### **CONCLUSION**

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

**The file does not indicate a change of correspondence has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A**

**courtesy copy of this decision is being mailed to the address given on the petition;  
however, the Office will mail all future correspondence solely to the address of record.**



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